

AMENDED IN SENATE APRIL 25, 2012

**SENATE BILL**

**No. 1425**

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**Introduced by Senator Negrete McLeod**

February 24, 2012

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An act to amend Sections 361.5 and 388 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

SB 1425, as amended, Negrete McLeod. Juveniles: dependent children.

Existing law governs proceedings to declare a minor a dependent child of the court. Following a finding that a child is a dependent child of the court, existing law requires the court to order reunification services to the child and his or her parent or parents. Under existing law, a court is authorized to deny reunification services if it finds, by clear and convincing evidence, one of fifteen specified circumstances. Those circumstances include if the child has been adjudicated a dependent child because of severe sexual abuse or severe physical harm, as defined, to the child, a sibling, or half sibling by the parent or guardian, provided that the court finds that pursuing reunification services with that parent would not benefit the child.

This bill would *instead* authorize a court to deny reunification services in a dependency case if the child has been adjudicated a dependent child because of severe sexual abuse or severe physical harm to a ~~nonrelated child in the care of the parent or guardian~~ *by a parent or guardian* and if the court finds that pursuing reunification services with that parent would not benefit the child.

Existing law provides that after a child is declared a dependent child of the court, any parent or other person having an interest in the child,

including the dependent child, may petition the court to change, modify, or set aside an order in the dependency proceedings or to terminate the court's jurisdiction. Existing law further permits any party, including the dependent child, to petition the court to terminate reunification services before the dependency review hearing. A court may terminate reunification services under this provision only after finding by a preponderance of the evidence that reasonable services have been offered and after finding by clear and convincing evidence either that a change in circumstances justifies termination of reunification services or that the parent's action or inaction makes reunification unlikely.

This bill would require a court to order a hearing on a petition to modify an order finding that reunification services were not necessary *or an order terminating parental rights* only if the court finds, by a preponderance of the evidence, that the best interests of the child would be met by the proposed change. Additionally, this bill would require a court to modify the order finding that reunification services were not necessary only if the court finds, by clear and convincing evidence, that ~~reunification~~ *the proposed change* is in the child's best interests. The bill would apply the same standards to petitions to modify an order relating to custody or visitation of the dependent child.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 361.5 of the Welfare and Institutions  
2     Code, as amended by Section 1 of Chapter 59 of the Statutes of  
3     2011, is amended to read:  
4     361.5. (a) Except as provided in subdivision (b), or when the  
5     parent has voluntarily relinquished the child and the relinquishment  
6     has been filed with the State Department of Social Services, or  
7     upon the establishment of an order of guardianship pursuant to  
8     Section 360, whenever a child is removed from a parent's or  
9     guardian's custody, the juvenile court shall order the social worker  
10    to provide child welfare services to the child and the child's mother  
11    and statutorily presumed father or guardians. Upon a finding and  
12    declaration of paternity by the juvenile court or proof of a prior  
13    declaration of paternity by any court of competent jurisdiction, the  
14    juvenile court may order services for the child and the biological

1 father, if the court determines that the services will benefit the  
2 child.

3 (1) Family reunification services, when provided, shall be  
4 provided as follows:

5 (A) Except as otherwise provided in subparagraph (C), for a  
6 child who, on the date of initial removal from the physical custody  
7 of his or her parent or guardian, was three years of age or older,  
8 court-ordered services shall be provided beginning with the  
9 dispositional hearing and ending 12 months after the date the child  
10 entered foster care as defined in Section 361.49, unless the child  
11 is returned to the home of the parent or guardian.

12 (B) For a child who, on the date of initial removal from the  
13 physical custody of his or her parent or guardian, was under three  
14 years of age, court-ordered services shall be provided for a period  
15 of six months from the dispositional hearing as provided in  
16 subdivision (e) of Section 366.21, but no longer than 12 months  
17 from the date the child entered foster care as defined in Section  
18 361.49 unless the child is returned to the home of the parent or  
19 guardian.

20 (C) For the purpose of placing and maintaining a sibling group  
21 together in a permanent home should reunification efforts fail, for  
22 a child in a sibling group whose members were removed from  
23 parental custody at the same time, and in which one member of  
24 the sibling group was under three years of age on the date of initial  
25 removal from the physical custody of his or her parent or guardian,  
26 court-ordered services for some or all of the sibling group may be  
27 limited as set forth in subparagraph (B). For the purposes of this  
28 paragraph, “a sibling group” shall mean two or more children who  
29 are related to each other as full or half siblings.

30 (2) Any motion to terminate court-ordered reunification services  
31 prior to the hearing set pursuant to subdivision (f) of Section 366.21  
32 for a child described by subparagraph (A) of paragraph (1), or  
33 prior to the hearing set pursuant to subdivision (e) of Section  
34 366.21 for a child described by subparagraph (B) or (C) of  
35 paragraph (1), shall be made pursuant to the requirements set forth  
36 in subdivision (c) of Section 388. A motion to terminate  
37 court-ordered reunification services shall not be required at the  
38 hearing set pursuant to subdivision (e) of Section 366.21 if the  
39 court finds by clear and convincing evidence one of the following:

1 (A) That the child was removed initially under subdivision (g)  
2 of Section 300 and the whereabouts of the parent are still unknown.

3 (B) That the parent has failed to contact and visit the child.

4 (C) That the parent has been convicted of a felony indicating  
5 parental unfitness.

6 (3) Notwithstanding subparagraphs (A), (B), and (C) of  
7 paragraph (1), court-ordered services may be extended up to a  
8 maximum time period not to exceed 18 months after the date the  
9 child was originally removed from physical custody of his or her  
10 parent or guardian if it can be shown, at the hearing held pursuant  
11 to subdivision (f) of Section 366.21, that the permanent plan for  
12 the child is that he or she will be returned and safely maintained  
13 in the home within the extended time period. The court shall extend  
14 the time period only if it finds that there is a substantial probability  
15 that the child will be returned to the physical custody of his or her  
16 parent or guardian within the extended time period or that  
17 reasonable services have not been provided to the parent or  
18 guardian. In determining whether court-ordered services may be  
19 extended, the court shall consider the special circumstances of an  
20 incarcerated or institutionalized parent or parents, or parent or  
21 parents court-ordered to a residential substance abuse treatment  
22 program, including, but not limited to, barriers to the parent's or  
23 guardian's access to services and ability to maintain contact with  
24 his or her child. The court shall also consider, among other factors,  
25 good faith efforts that the parent or guardian has made to maintain  
26 contact with the child. If the court extends the time period, the  
27 court shall specify the factual basis for its conclusion that there is  
28 a substantial probability that the child will be returned to the  
29 physical custody of his or her parent or guardian within the  
30 extended time period. The court also shall make findings pursuant  
31 to subdivision (a) of Section 366 and subdivision (e) of Section  
32 358.1.

33 When counseling or other treatment services are ordered, the  
34 parent or guardian shall be ordered to participate in those services,  
35 unless the parent's or guardian's participation is deemed by the  
36 court to be inappropriate or potentially detrimental to the child, or  
37 unless a parent or guardian is incarcerated and the corrections  
38 facility in which he or she is incarcerated does not provide access  
39 to the treatment services ordered by the court. Physical custody of  
40 the child by the parents or guardians during the applicable time

1 period under subparagraph (A), (B), or (C) of paragraph (1) shall  
2 not serve to interrupt the running of the period. If at the end of the  
3 applicable time period, a child cannot be safely returned to the  
4 care and custody of a parent or guardian without court supervision,  
5 but the child clearly desires contact with the parent or guardian,  
6 the court shall take the child's desire into account in devising a  
7 permanency plan.

8 In cases where the child was under three years of age on the date  
9 of the initial removal from the physical custody of his or her parent  
10 or guardian or is a member of a sibling group as described in  
11 subparagraph (C) of paragraph (1), the court shall inform the parent  
12 or guardian that the failure of the parent or guardian to participate  
13 regularly in any court-ordered treatment programs or to cooperate  
14 or avail himself or herself of services provided as part of the child  
15 welfare services case plan may result in a termination of efforts  
16 to reunify the family after six months. The court shall inform the  
17 parent or guardian of the factors used in subdivision (e) of Section  
18 366.21 to determine whether to limit services to six months for  
19 some or all members of a sibling group as described in  
20 subparagraph (C) of paragraph (1).

21 (4) Notwithstanding paragraph (3), court-ordered services may  
22 be extended up to a maximum time period not to exceed 24 months  
23 after the date the child was originally removed from physical  
24 custody of his or her parent or guardian if it is shown, at the hearing  
25 held pursuant to subdivision (b) of Section 366.22, that the  
26 permanent plan for the child is that he or she will be returned and  
27 safely maintained in the home within the extended time period.  
28 The court shall extend the time period only if it finds that it is in  
29 the child's best interest to have the time period extended and that  
30 there is a substantial probability that the child will be returned to  
31 the physical custody of his or her parent or guardian who is  
32 described in subdivision (b) of Section 366.22 within the extended  
33 time period, or that reasonable services have not been provided to  
34 the parent or guardian. If the court extends the time period, the  
35 court shall specify the factual basis for its conclusion that there is  
36 a substantial probability that the child will be returned to the  
37 physical custody of his or her parent or guardian within the  
38 extended time period. The court also shall make findings pursuant  
39 to subdivision (a) of Section 366 and subdivision (e) of Section  
40 358.1.

1 When counseling or other treatment services are ordered, the  
2 parent or guardian shall be ordered to participate in those services,  
3 in order for substantial probability to be found. Physical custody  
4 of the child by the parents or guardians during the applicable time  
5 period under subparagraph (A), (B), or (C) of paragraph (1) shall  
6 not serve to interrupt the running of the period. If at the end of the  
7 applicable time period, the child cannot be safely returned to the  
8 care and custody of a parent or guardian without court supervision,  
9 but the child clearly desires contact with the parent or guardian,  
10 the court shall take the child's desire into account in devising a  
11 permanency plan.

12 Except in cases where, pursuant to subdivision (b), the court  
13 does not order reunification services, the court shall inform the  
14 parent or parents of Section 366.26 and shall specify that the  
15 parent's or parents' parental rights may be terminated.

16 (b) Reunification services need not be provided to a parent or  
17 guardian described in this subdivision when the court finds, by  
18 clear and convincing evidence, any of the following:

19 (1) That the whereabouts of the parent or guardian is unknown.  
20 A finding pursuant to this paragraph shall be supported by an  
21 affidavit or by proof that a reasonably diligent search has failed  
22 to locate the parent or guardian. The posting or publication of  
23 notices is not required in that search.

24 (2) That the parent or guardian is suffering from a mental  
25 disability that is described in Chapter 2 (commencing with Section  
26 7820) of Part 4 of Division 12 of the Family Code and that renders  
27 him or her incapable of utilizing those services.

28 (3) That the child or a sibling of the child has been previously  
29 adjudicated a dependent pursuant to any subdivision of Section  
30 300 as a result of physical or sexual abuse, that following that  
31 adjudication the child had been removed from the custody of his  
32 or her parent or guardian pursuant to Section 361, that the child  
33 has been returned to the custody of the parent or guardian from  
34 whom the child had been taken originally, and that the child is  
35 being removed pursuant to Section 361, due to additional physical  
36 or sexual abuse.

37 (4) That the parent or guardian of the child has caused the death  
38 of another child through abuse or neglect.

1 (5) That the child was brought within the jurisdiction of the  
2 court under subdivision (e) of Section 300 because of the conduct  
3 of that parent or guardian.

4 (6) That the child has been adjudicated a dependent pursuant  
5 to any subdivision of Section 300 as a result of severe sexual abuse  
6 or the infliction of severe physical harm to ~~the child, a sibling, or~~  
7 ~~a half sibling~~ *a child* by a parent or guardian, ~~or as a result of severe~~  
8 ~~sexual abuse or the infliction of severe physical harm to a~~  
9 ~~nonrelated child in the care of the parent or guardian~~, as defined  
10 in this subdivision, and the court makes a factual finding that it  
11 would not benefit the child to pursue reunification services with  
12 the offending parent or guardian.

13 A finding of severe sexual abuse, for the purposes of this  
14 subdivision, may be based on, but is not limited to, sexual  
15 intercourse, or stimulation involving genital-genital, oral-genital,  
16 anal-genital, or oral-anal contact, whether between the parent or  
17 guardian and ~~the child or a sibling or half sibling of the~~ *a child*, or  
18 ~~between the child or a sibling or half sibling of the~~ *a child* and  
19 another person or animal with the actual or implied consent of the  
20 parent or guardian; or the penetration or manipulation of ~~the~~  
21 ~~child's, sibling's, or half sibling's~~ *a child's* genital organs or rectum  
22 by any animate or inanimate object for the sexual gratification of  
23 the parent or guardian, or for the sexual gratification of another  
24 person with the actual or implied consent of the parent or guardian.

25 A finding of the infliction of severe physical harm, for the  
26 purposes of this subdivision, may be based on, but is not limited  
27 to, deliberate and serious injury inflicted to or on a child's body  
28 ~~or the body of a sibling or half sibling of the child~~ by an act or  
29 omission of the parent or guardian, or of another individual or  
30 animal with the consent of the parent or guardian; deliberate and  
31 torturous confinement of ~~the child, sibling, or half sibling~~ *a child*  
32 in a closed space; or any other torturous act or omission that would  
33 be reasonably understood to cause serious emotional damage.

34 (7) That the parent is not receiving reunification services for a  
35 sibling or a half sibling of the child pursuant to paragraph (3), (5),  
36 or (6).

37 (8) That the child was conceived by means of the commission  
38 of an offense listed in Section 288 or 288.5 of the Penal Code, or  
39 by an act committed outside of this state that, if committed in this

1 state, would constitute one of those offenses. This paragraph only  
2 applies to the parent who committed the offense or act.

3 (9) That the child has been found to be a child described in  
4 subdivision (g) of Section 300; that the parent or guardian of the  
5 child willfully abandoned the child, and the court finds that the  
6 abandonment itself constituted a serious danger to the child; or  
7 that the parent or other person having custody of the child  
8 voluntarily surrendered physical custody of the child pursuant to  
9 Section 1255.7 of the Health and Safety Code. For the purposes  
10 of this paragraph, “serious danger” means that without the  
11 intervention of another person or agency, the child would have  
12 sustained severe or permanent disability, injury, illness, or death.  
13 For purposes of this paragraph, “willful abandonment” shall not  
14 be construed as actions taken in good faith by the parent without  
15 the intent of placing the child in serious danger.

16 (10) That the court ordered termination of reunification services  
17 for any siblings or half siblings of the child because the parent or  
18 guardian failed to reunify with the sibling or half sibling after the  
19 sibling or half sibling had been removed from that parent or  
20 guardian pursuant to Section 361 and that parent or guardian is  
21 the same parent or guardian described in subdivision (a) and that,  
22 according to the findings of the court, this parent or guardian has  
23 not subsequently made a reasonable effort to treat the problems  
24 that led to removal of the sibling or half sibling of that child from  
25 that parent or guardian.

26 (11) That the parental rights of a parent over any sibling or half  
27 sibling of the child had been permanently severed, and this parent  
28 is the same parent described in subdivision (a), and that, according  
29 to the findings of the court, this parent has not subsequently made  
30 a reasonable effort to treat the problems that led to removal of the  
31 sibling or half sibling of that child from the parent.

32 (12) That the parent or guardian of the child has been convicted  
33 of a violent felony, as defined in subdivision (c) of Section 667.5  
34 of the Penal Code.

35 (13) That the parent or guardian of the child has a history of  
36 extensive, abusive, and chronic use of drugs or alcohol and has  
37 resisted prior court-ordered treatment for this problem during a  
38 three-year period immediately prior to the filing of the petition  
39 that brought that child to the court’s attention, or has failed or  
40 refused to comply with a program of drug or alcohol treatment



1 described in the case plan required by Section 358.1 on at least  
2 two prior occasions, even though the programs identified were  
3 available and accessible.

4 (14) That the parent or guardian of the child has advised the  
5 court that he or she is not interested in receiving family  
6 maintenance or family reunification services or having the child  
7 returned to or placed in his or her custody and does not wish to  
8 receive family maintenance or reunification services.

9 The parent or guardian shall be represented by counsel and shall  
10 execute a waiver of services form to be adopted by the Judicial  
11 Council. The court shall advise the parent or guardian of any right  
12 to services and of the possible consequences of a waiver of  
13 services, including the termination of parental rights and placement  
14 of the child for adoption. The court shall not accept the waiver of  
15 services unless it states on the record its finding that the parent or  
16 guardian has knowingly and intelligently waived the right to  
17 services.

18 (15) That the parent or guardian has on one or more occasions  
19 willfully abducted the child or child's sibling or half sibling from  
20 his or her placement and refused to disclose the child's or child's  
21 sibling's or half sibling's whereabouts, refused to return physical  
22 custody of the child or child's sibling or half sibling to his or her  
23 placement, or refused to return physical custody of the child or  
24 child's sibling or half sibling to the social worker.

25 (c) In deciding whether to order reunification in any case in  
26 which this section applies, the court shall hold a dispositional  
27 hearing. The social worker shall prepare a report that discusses  
28 whether reunification services shall be provided. When it is alleged,  
29 pursuant to paragraph (2) of subdivision (b), that the parent is  
30 incapable of utilizing services due to mental disability, the court  
31 shall order reunification services unless competent evidence from  
32 mental health professionals establishes that, even with the provision  
33 of services, the parent is unlikely to be capable of adequately caring  
34 for the child within the time limits specified in subdivision (a).

35 The court shall not order reunification for a parent or guardian  
36 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),  
37 (13), (14), or (15) of subdivision (b) unless the court finds, by clear  
38 and convincing evidence, that reunification is in the best interest  
39 of the child.

1 In addition, the court shall not order reunification in any situation  
2 described in paragraph (5) of subdivision (b) unless it finds that,  
3 based on competent testimony, those services are likely to prevent  
4 reabuse or continued neglect of the child or that failure to try  
5 reunification will be detrimental to the child because the child is  
6 closely and positively attached to that parent. The social worker  
7 shall investigate the circumstances leading to the removal of the  
8 child and advise the court whether there are circumstances that  
9 indicate that reunification is likely to be successful or unsuccessful  
10 and whether failure to order reunification is likely to be detrimental  
11 to the child.

12 The failure of the parent to respond to previous services, the fact  
13 that the child was abused while the parent was under the influence  
14 of drugs or alcohol, a past history of violent behavior, or testimony  
15 by a competent professional that the parent's behavior is unlikely  
16 to be changed by services are among the factors indicating that  
17 reunification services are unlikely to be successful. The fact that  
18 a parent or guardian is no longer living with an individual who  
19 severely abused the child may be considered in deciding that  
20 reunification services are likely to be successful, provided that the  
21 court shall consider any pattern of behavior on the part of the parent  
22 that has exposed the child to repeated abuse.

23 (d) If reunification services are not ordered pursuant to  
24 paragraph (1) of subdivision (b) and the whereabouts of a parent  
25 become known within six months of the out-of-home placement  
26 of the child, the court shall order the social worker to provide  
27 family reunification services in accordance with this subdivision.

28 (e) (1) If the parent or guardian is incarcerated or  
29 institutionalized, the court shall order reasonable services unless  
30 the court determines, by clear and convincing evidence, those  
31 services would be detrimental to the child. In determining  
32 detriment, the court shall consider the age of the child, the degree  
33 of parent-child bonding, the length of the sentence, the length and  
34 nature of the treatment, the nature of the crime or illness, the degree  
35 of detriment to the child if services are not offered and, for children  
36 10 years of age or older, the child's attitude toward the  
37 implementation of family reunification services, the likelihood of  
38 the parent's discharge from incarceration or institutionalization  
39 within the reunification time limitations described in subdivision  
40 (a), and any other appropriate factors. In determining the content

1 of reasonable services, the court shall consider the particular  
2 barriers to an incarcerated or otherwise institutionalized parent's  
3 access to those court-mandated services and ability to maintain  
4 contact with his or her child, and shall document this information  
5 in the child's case plan. Reunification services are subject to the  
6 applicable time limitations imposed in subdivision (a). Services  
7 may include, but shall not be limited to, all of the following:

8 (A) Maintaining contact between the parent and child through  
9 collect telephone calls.

10 (B) Transportation services, where appropriate.

11 (C) Visitation services, where appropriate.

12 (D) Reasonable services to extended family members or foster  
13 parents providing care for the child if the services are not  
14 detrimental to the child.

15 An incarcerated parent may be required to attend counseling,  
16 parenting classes, or vocational training programs as part of the  
17 reunification service plan if actual access to these services is  
18 provided. The social worker shall document in the child's case  
19 plan the particular barriers to an incarcerated or institutionalized  
20 parent's access to those court-mandated services and ability to  
21 maintain contact with his or her child.

22 (2) The presiding judge of the juvenile court of each county  
23 may convene representatives of the county welfare department,  
24 the sheriff's department, and other appropriate entities for the  
25 purpose of developing and entering into protocols for ensuring the  
26 notification, transportation, and presence of an incarcerated or  
27 institutionalized parent at all court hearings involving proceedings  
28 affecting the child pursuant to Section 2625 of the Penal Code.  
29 The county welfare department shall utilize the prisoner locator  
30 system developed by the Department of Corrections and  
31 Rehabilitation to facilitate timely and effective notice of hearings  
32 for incarcerated parents.

33 (3) Notwithstanding any other provision of law, if the  
34 incarcerated parent is a woman seeking to participate in the  
35 community treatment program operated by the Department of  
36 Corrections and Rehabilitation pursuant to Chapter 4.8  
37 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter  
38 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal  
39 Code, the court shall determine whether the parent's participation

1 in a program is in the child's best interest and whether it is suitable  
2 to meet the needs of the parent and child.

3 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),  
4 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or  
5 paragraph (1) of subdivision (e), does not order reunification  
6 services, it shall, at the dispositional hearing, that shall include a  
7 permanency hearing, determine if a hearing under Section 366.26  
8 shall be set in order to determine whether adoption, guardianship,  
9 or long-term foster care, or in the case of an Indian child, in  
10 consultation with the child's tribe, tribal customary adoption, is  
11 the most appropriate plan for the child, and shall consider in-state  
12 and out-of-state placement options. If the court so determines, it  
13 shall conduct the hearing pursuant to Section 366.26 within 120  
14 days after the dispositional hearing. However, the court shall not  
15 schedule a hearing so long as the other parent is being provided  
16 reunification services pursuant to subdivision (a). The court may  
17 continue to permit the parent to visit the child unless it finds that  
18 visitation would be detrimental to the child.

19 (g) (1) Whenever a court orders that a hearing shall be held  
20 pursuant to Section 366.26, including, when, in consultation with  
21 the child's tribe, tribal customary adoption is recommended, it  
22 shall direct the agency supervising the child and the licensed county  
23 adoption agency, or the State Department of Social Services when  
24 it is acting as an adoption agency in counties that are not served  
25 by a county adoption agency, to prepare an assessment that shall  
26 include:

27 (A) Current search efforts for an absent parent or parents and  
28 notification of a noncustodial parent in the manner provided for  
29 in Section 291.

30 (B) A review of the amount of and nature of any contact between  
31 the child and his or her parents and other members of his or her  
32 extended family since the time of placement. Although the  
33 extended family of each child shall be reviewed on a case-by-case  
34 basis, "extended family" for the purpose of this subparagraph shall  
35 include, but not be limited to, the child's siblings, grandparents,  
36 aunts, and uncles.

37 (C) An evaluation of the child's medical, developmental,  
38 scholastic, mental, and emotional status.

39 (D) A preliminary assessment of the eligibility and commitment  
40 of any identified prospective adoptive parent or guardian, including

1 a prospective tribal customary adoptive parent, particularly the  
2 caretaker, to include a social history, including screening for  
3 criminal records and prior referrals for child abuse or neglect, the  
4 capability to meet the child's needs, and the understanding of the  
5 legal and financial rights and responsibilities of adoption and  
6 guardianship. If a proposed guardian is a relative of the minor, the  
7 assessment shall also consider, but need not be limited to, all of  
8 the factors specified in subdivision (a) of Section 361.3 and in  
9 Section 361.4. As used in this subparagraph, "relative" means an  
10 adult who is related to the minor by blood, adoption, or affinity  
11 within the fifth degree of kinship, including stepparents,  
12 stepsiblings, and all relatives whose status is preceded by the words  
13 "great," "great-great," or "grand," or the spouse of any of those  
14 persons even if the marriage was terminated by death or  
15 dissolution.

16 (E) The relationship of the child to any identified prospective  
17 adoptive parent or guardian, including a prospective tribal  
18 customary parent, the duration and character of the relationship,  
19 the degree of attachment of the child to the prospective relative  
20 guardian or adoptive parent, the relative's or adoptive parent's  
21 strong commitment to caring permanently for the child, the  
22 motivation for seeking adoption or guardianship, a statement from  
23 the child concerning placement and the adoption or guardianship,  
24 and whether the child over 12 years of age has been consulted  
25 about the proposed relative guardianship arrangements, unless the  
26 child's age or physical, emotional, or other condition precludes  
27 his or her meaningful response, and if so, a description of the  
28 condition.

29 (F) An analysis of the likelihood that the child will be adopted  
30 if parental rights are terminated.

31 (G) In the case of an Indian child, in addition to subparagraphs  
32 (A) to (F), inclusive, an assessment of the likelihood that the child  
33 will be adopted, when, in consultation with the child's tribe, a  
34 customary tribal adoption, as defined in Section 366.24, is  
35 recommended. If tribal customary adoption is recommended, the  
36 assessment shall include an analysis of both of the following:

37 (i) Whether tribal customary adoption would or would not be  
38 detrimental to the Indian child and the reasons for reaching that  
39 conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption.

(h) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) of Chapter 2, as applicable.

(i) In determining whether reunification services will benefit the child pursuant to paragraph (6) or (7) of subdivision (b), the court shall consider any information it deems relevant, including the following factors:

(1) The specific act or omission comprising the severe sexual abuse or the severe physical harm inflicted on the child or the child's ~~sibling or half sibling or nonrelated child in the care of the parent or guardian~~ *sibling or half sibling, or another child.*

(2) The circumstances under which the abuse or harm was inflicted on the child or the child's ~~sibling or half sibling~~ *sibling or half sibling, or another child.*

(3) The severity of the emotional trauma suffered by the child or the child's sibling or half sibling, *or another sibling.*

(4) Any history of abuse of other children by the offending parent or guardian.

(5) The likelihood that the child may be safely returned to the care of the offending parent or guardian within 12 months with no continuing supervision.

(6) Whether or not the child desires to be reunified with the offending parent or guardian.

1 (j) When the court determines that reunification services will  
2 not be ordered, it shall order that the child's caregiver receive the  
3 child's birth certificate in accordance with Sections 16010.4 and  
4 16010.5. Additionally, when the court determines that reunification  
5 services will not be ordered, it shall order, when appropriate, that  
6 a child who is 16 years of age or older receive his or her birth  
7 certificate.

8 (k) The court shall read into the record the basis for a finding  
9 of severe sexual abuse or the infliction of severe physical harm  
10 under paragraph (6) of subdivision (b), and shall also specify the  
11 factual findings used to determine that the provision of  
12 reunification services to the offending parent or guardian would  
13 not benefit the child.

14 (l) This section shall remain in effect only until January 1, 2014,  
15 and as of that date is repealed, unless a later enacted statute, that  
16 is enacted before January 1, 2014, deletes or extends that date.

17 SEC. 2. Section 361.5 of the Welfare and Institutions Code,  
18 as amended by Section 14 of Chapter 559 of the Statutes of 2010,  
19 is amended to read:

20 361.5. (a) Except as provided in subdivision (b), or when the  
21 parent has voluntarily relinquished the child and the relinquishment  
22 has been filed with the State Department of Social Services, or  
23 upon the establishment of an order of guardianship pursuant to  
24 Section 360, whenever a child is removed from a parent's or  
25 guardian's custody, the juvenile court shall order the social worker  
26 to provide child welfare services to the child and the child's mother  
27 and statutorily presumed father or guardians. Upon a finding and  
28 declaration of paternity by the juvenile court or proof of a prior  
29 declaration of paternity by any court of competent jurisdiction, the  
30 juvenile court may order services for the child and the biological  
31 father, if the court determines that the services will benefit the  
32 child.

33 (1) Family reunification services, when provided, shall be  
34 provided as follows:

35 (A) Except as otherwise provided in subparagraph (C), for a  
36 child who, on the date of initial removal from the physical custody  
37 of his or her parent or guardian, was three years of age or older,  
38 court-ordered services shall be provided beginning with the  
39 dispositional hearing and ending 12 months after the date the child

1 entered foster care as defined in Section 361.49, unless the child  
2 is returned to the home of the parent or guardian.

3 (B) For a child who, on the date of initial removal from the  
4 physical custody of his or her parent or guardian, was under three  
5 years of age, court-ordered services shall be provided for a period  
6 of six months from the dispositional hearing as provided in  
7 subdivision (e) of Section 366.21, but no longer than 12 months  
8 from the date the child entered foster care as defined in Section  
9 361.49 unless the child is returned to the home of the parent or  
10 guardian.

11 (C) For the purpose of placing and maintaining a sibling group  
12 together in a permanent home should reunification efforts fail, for  
13 a child in a sibling group whose members were removed from  
14 parental custody at the same time, and in which one member of  
15 the sibling group was under three years of age on the date of initial  
16 removal from the physical custody of his or her parent or guardian,  
17 court-ordered services for some or all of the sibling group may be  
18 limited as set forth in subparagraph (B). For the purposes of this  
19 paragraph, “a sibling group” shall mean two or more children who  
20 are related to each other as full or half siblings.

21 (2) Any motion to terminate court-ordered reunification services  
22 prior to the hearing set pursuant to subdivision (f) of Section 366.21  
23 for a child described by subparagraph (A) of paragraph (1), or  
24 prior to the hearing set pursuant to subdivision (e) of Section  
25 366.21 for a child described by subparagraph (B) or (C) of  
26 paragraph (1), shall be made pursuant to the requirements set forth  
27 in subdivision (c) of Section 388. A motion to terminate  
28 court-ordered reunification services shall not be required at the  
29 hearing set pursuant to subdivision (e) of Section 366.21 if the  
30 court finds by clear and convincing evidence one of the following:

31 (A) That the child was removed initially under subdivision (g)  
32 of Section 300 and the whereabouts of the parent are still unknown.

33 (B) That the parent has failed to contact and visit the child.

34 (C) That the parent has been convicted of a felony indicating  
35 parental unfitness.

36 (3) Notwithstanding subparagraphs (A), (B), and (C) of  
37 paragraph (1), court-ordered services may be extended up to a  
38 maximum time period not to exceed 18 months after the date the  
39 child was originally removed from physical custody of his or her  
40 parent or guardian if it can be shown, at the hearing held pursuant



1 to subdivision (f) of Section 366.21, that the permanent plan for  
2 the child is that he or she will be returned and safely maintained  
3 in the home within the extended time period. The court shall extend  
4 the time period only if it finds that there is a substantial probability  
5 that the child will be returned to the physical custody of his or her  
6 parent or guardian within the extended time period or that  
7 reasonable services have not been provided to the parent or  
8 guardian. In determining whether court-ordered services may be  
9 extended, the court shall consider the special circumstances of an  
10 incarcerated or institutionalized parent or parents, or parent or  
11 parents court-ordered to a residential substance abuse treatment  
12 program, including, but not limited to, barriers to the parent's or  
13 guardian's access to services and ability to maintain contact with  
14 his or her child. The court shall also consider, among other factors,  
15 good faith efforts that the parent or guardian has made to maintain  
16 contact with the child. If the court extends the time period, the  
17 court shall specify the factual basis for its conclusion that there is  
18 a substantial probability that the child will be returned to the  
19 physical custody of his or her parent or guardian within the  
20 extended time period. The court also shall make findings pursuant  
21 to subdivision (a) of Section 366 and subdivision (e) of Section  
22 358.1.

23 When counseling or other treatment services are ordered, the  
24 parent or guardian shall be ordered to participate in those services,  
25 unless the parent's or guardian's participation is deemed by the  
26 court to be inappropriate or potentially detrimental to the child, or  
27 unless a parent or guardian is incarcerated and the corrections  
28 facility in which he or she is incarcerated does not provide access  
29 to the treatment services ordered by the court. Physical custody of  
30 the child by the parents or guardians during the applicable time  
31 period under subparagraph (A), (B), or (C) of paragraph (1) shall  
32 not serve to interrupt the running of the period. If at the end of the  
33 applicable time period, a child cannot be safely returned to the  
34 care and custody of a parent or guardian without court supervision,  
35 but the child clearly desires contact with the parent or guardian,  
36 the court shall take the child's desire into account in devising a  
37 permanency plan.

38 In cases where the child was under three years of age on the date  
39 of the initial removal from the physical custody of his or her parent  
40 or guardian or is a member of a sibling group as described in

1 subparagraph (C) of paragraph (1), the court shall inform the parent  
2 or guardian that the failure of the parent or guardian to participate  
3 regularly in any court-ordered treatment programs or to cooperate  
4 or avail himself or herself of services provided as part of the child  
5 welfare services case plan may result in a termination of efforts  
6 to reunify the family after six months. The court shall inform the  
7 parent or guardian of the factors used in subdivision (e) of Section  
8 366.21 to determine whether to limit services to six months for  
9 some or all members of a sibling group as described in  
10 subparagraph (C) of paragraph (1).

11 (4) Notwithstanding paragraph (3), court-ordered services may  
12 be extended up to a maximum time period not to exceed 24 months  
13 after the date the child was originally removed from physical  
14 custody of his or her parent or guardian if it is shown, at the hearing  
15 held pursuant to subdivision (b) of Section 366.22, that the  
16 permanent plan for the child is that he or she will be returned and  
17 safely maintained in the home within the extended time period.  
18 The court shall extend the time period only if it finds that it is in  
19 the child's best interest to have the time period extended and that  
20 there is a substantial probability that the child will be returned to  
21 the physical custody of his or her parent or guardian who is  
22 described in subdivision (b) of Section 366.22 within the extended  
23 time period, or that reasonable services have not been provided to  
24 the parent or guardian. If the court extends the time period, the  
25 court shall specify the factual basis for its conclusion that there is  
26 a substantial probability that the child will be returned to the  
27 physical custody of his or her parent or guardian within the  
28 extended time period. The court also shall make findings pursuant  
29 to subdivision (a) of Section 366 and subdivision (e) of Section  
30 358.1.

31 When counseling or other treatment services are ordered, the  
32 parent or guardian shall be ordered to participate in those services,  
33 in order for substantial probability to be found. Physical custody  
34 of the child by the parents or guardians during the applicable time  
35 period under subparagraph (A), (B), or (C) of paragraph (1) shall  
36 not serve to interrupt the running of the period. If at the end of the  
37 applicable time period, the child cannot be safely returned to the  
38 care and custody of a parent or guardian without court supervision,  
39 but the child clearly desires contact with the parent or guardian,

1 the court shall take the child's desire into account in devising a  
2 permanency plan.

3 Except in cases where, pursuant to subdivision (b), the court  
4 does not order reunification services, the court shall inform the  
5 parent or parents of Section 366.26 and shall specify that the  
6 parent's or parents' parental rights may be terminated.

7 (b) Reunification services need not be provided to a parent or  
8 guardian described in this subdivision when the court finds, by  
9 clear and convincing evidence, any of the following:

10 (1) That the whereabouts of the parent or guardian is unknown.  
11 A finding pursuant to this paragraph shall be supported by an  
12 affidavit or by proof that a reasonably diligent search has failed  
13 to locate the parent or guardian. The posting or publication of  
14 notices is not required in that search.

15 (2) That the parent or guardian is suffering from a mental  
16 disability that is described in Chapter 2 (commencing with Section  
17 7820) of Part 4 of Division 12 of the Family Code and that renders  
18 him or her incapable of utilizing those services.

19 (3) That the child or a sibling of the child has been previously  
20 adjudicated a dependent pursuant to any subdivision of Section  
21 300 as a result of physical or sexual abuse, that following that  
22 adjudication the child had been removed from the custody of his  
23 or her parent or guardian pursuant to Section 361, that the child  
24 has been returned to the custody of the parent or guardian from  
25 whom the child had been taken originally, and that the child is  
26 being removed pursuant to Section 361, due to additional physical  
27 or sexual abuse.

28 (4) That the parent or guardian of the child has caused the death  
29 of another child through abuse or neglect.

30 (5) That the child was brought within the jurisdiction of the  
31 court under subdivision (e) of Section 300 because of the conduct  
32 of that parent or guardian.

33 (6) That the child has been adjudicated a dependent pursuant  
34 to any subdivision of Section 300 as a result of severe sexual abuse  
35 or the infliction of severe physical harm to the child, a sibling, or  
36 a half sibling *a child* by a parent or guardian, or as a result of severe  
37 sexual abuse or the infliction of physical harm to a nonrelated child  
38 in the care of the parent or guardian, as defined in this subdivision,  
39 and the court makes a factual finding that it would not benefit the

1 child to pursue reunification services with the offending parent or  
2 guardian.

3 A finding of severe sexual abuse, for the purposes of this  
4 subdivision, may be based on, but is not limited to, sexual  
5 intercourse, or stimulation involving genital-genital, oral-genital,  
6 anal-genital, or oral-anal contact, whether between the parent or  
7 guardian and ~~the child or a sibling or half sibling of the~~ *a* child, or  
8 ~~between the child or a sibling or half sibling of the~~ *a* child and  
9 another person or animal with the actual or implied consent of the  
10 parent or guardian; or the penetration or manipulation of ~~the~~  
11 ~~child's, sibling's, or half sibling's~~ *a child's* genital organs or rectum  
12 by any animate or inanimate object for the sexual gratification of  
13 the parent or guardian, or for the sexual gratification of another  
14 person with the actual or implied consent of the parent or guardian.

15 A finding of the infliction of severe physical harm, for the  
16 purposes of this subdivision, may be based on, but is not limited  
17 to, deliberate and serious injury inflicted to or on a child's body  
18 ~~or the body of a sibling or half sibling of the child~~ by an act or  
19 omission of the parent or guardian, or of another individual or  
20 animal with the consent of the parent or guardian; deliberate and  
21 torturous confinement of ~~the child, sibling, or half sibling~~ *a child*  
22 in a closed space; or any other torturous act or omission that would  
23 be reasonably understood to cause serious emotional damage.

24 (7) That the parent is not receiving reunification services for a  
25 sibling or a half sibling of the child pursuant to paragraph (3), (5),  
26 or (6).

27 (8) That the child was conceived by means of the commission  
28 of an offense listed in Section 288 or 288.5 of the Penal Code, or  
29 by an act committed outside of this state that, if committed in this  
30 state, would constitute one of those offenses. This paragraph only  
31 applies to the parent who committed the offense or act.

32 (9) That the child has been found to be a child described in  
33 subdivision (g) of Section 300, that the parent or guardian of the  
34 child willfully abandoned the child, and the court finds that the  
35 abandonment itself constituted a serious danger to the child; or  
36 that the parent or other person having custody of the child  
37 voluntarily surrendered physical custody of the child pursuant to  
38 Section 1255.7 of the Health and Safety Code. For the purposes  
39 of this paragraph, "serious danger" means that without the  
40 intervention of another person or agency, the child would have

1 sustained severe or permanent disability, injury, illness, or death.  
2 For purposes of this paragraph, “willful abandonment” shall not  
3 be construed as actions taken in good faith by the parent without  
4 the intent of placing the child in serious danger.

5 (10) That the court ordered termination of reunification services  
6 for any siblings or half siblings of the child because the parent or  
7 guardian failed to reunify with the sibling or half sibling after the  
8 sibling or half sibling had been removed from that parent or  
9 guardian pursuant to Section 361 and that parent or guardian is  
10 the same parent or guardian described in subdivision (a) and that,  
11 according to the findings of the court, this parent or guardian has  
12 not subsequently made a reasonable effort to treat the problems  
13 that led to removal of the sibling or half sibling of that child from  
14 that parent or guardian.

15 (11) That the parental rights of a parent over any sibling or half  
16 sibling of the child had been permanently severed, and this parent  
17 is the same parent described in subdivision (a), and that, according  
18 to the findings of the court, this parent has not subsequently made  
19 a reasonable effort to treat the problems that led to removal of the  
20 sibling or half sibling of that child from the parent.

21 (12) That the parent or guardian of the child has been convicted  
22 of a violent felony, as defined in subdivision (c) of Section 667.5  
23 of the Penal Code.

24 (13) That the parent or guardian of the child has a history of  
25 extensive, abusive, and chronic use of drugs or alcohol and has  
26 resisted prior court-ordered treatment for this problem during a  
27 three-year period immediately prior to the filing of the petition  
28 that brought that child to the court’s attention, or has failed or  
29 refused to comply with a program of drug or alcohol treatment  
30 described in the case plan required by Section 358.1 on at least  
31 two prior occasions, even though the programs identified were  
32 available and accessible.

33 (14) That the parent or guardian of the child has advised the  
34 court that he or she is not interested in receiving family  
35 maintenance or family reunification services or having the child  
36 returned to or placed in his or her custody and does not wish to  
37 receive family maintenance or reunification services.

38 The parent or guardian shall be represented by counsel and shall  
39 execute a waiver of services form to be adopted by the Judicial  
40 Council. The court shall advise the parent or guardian of any right

1 to services and of the possible consequences of a waiver of  
2 services, including the termination of parental rights and placement  
3 of the child for adoption. The court shall not accept the waiver of  
4 services unless it states on the record its finding that the parent or  
5 guardian has knowingly and intelligently waived the right to  
6 services.

7 (15) That the parent or guardian has on one or more occasions  
8 willfully abducted the child or child's sibling or half sibling from  
9 his or her placement and refused to disclose the child's or child's  
10 sibling's or half sibling's whereabouts, refused to return physical  
11 custody of the child or child's sibling or half sibling to his or her  
12 placement, or refused to return physical custody of the child or  
13 child's sibling or half sibling to the social worker.

14 (c) In deciding whether to order reunification in any case in  
15 which this section applies, the court shall hold a dispositional  
16 hearing. The social worker shall prepare a report that discusses  
17 whether reunification services shall be provided. When it is alleged,  
18 pursuant to paragraph (2) of subdivision (b), that the parent is  
19 incapable of utilizing services due to mental disability, the court  
20 shall order reunification services unless competent evidence from  
21 mental health professionals establishes that, even with the provision  
22 of services, the parent is unlikely to be capable of adequately caring  
23 for the child within the time limits specified in subdivision (a).

24 The court shall not order reunification for a parent or guardian  
25 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),  
26 (13), (14), or (15) of subdivision (b) unless the court finds, by clear  
27 and convincing evidence, that reunification is in the best interest  
28 of the child.

29 In addition, the court shall not order reunification in any situation  
30 described in paragraph (5) of subdivision (b) unless it finds that,  
31 based on competent testimony, those services are likely to prevent  
32 reabuse or continued neglect of the child or that failure to try  
33 reunification will be detrimental to the child because the child is  
34 closely and positively attached to that parent. The social worker  
35 shall investigate the circumstances leading to the removal of the  
36 child and advise the court whether there are circumstances that  
37 indicate that reunification is likely to be successful or unsuccessful  
38 and whether failure to order reunification is likely to be detrimental  
39 to the child.

1 The failure of the parent to respond to previous services, the fact  
2 that the child was abused while the parent was under the influence  
3 of drugs or alcohol, a past history of violent behavior, or testimony  
4 by a competent professional that the parent's behavior is unlikely  
5 to be changed by services are among the factors indicating that  
6 reunification services are unlikely to be successful. The fact that  
7 a parent or guardian is no longer living with an individual who  
8 severely abused the child may be considered in deciding that  
9 reunification services are likely to be successful, provided that the  
10 court shall consider any pattern of behavior on the part of the parent  
11 that has exposed the child to repeated abuse.

12 (d) If reunification services are not ordered pursuant to  
13 paragraph (1) of subdivision (b) and the whereabouts of a parent  
14 become known within six months of the out-of-home placement  
15 of the child, the court shall order the social worker to provide  
16 family reunification services in accordance with this subdivision.

17 (e) (1) If the parent or guardian is incarcerated or  
18 institutionalized, the court shall order reasonable services unless  
19 the court determines, by clear and convincing evidence, those  
20 services would be detrimental to the child. In determining  
21 detriment, the court shall consider the age of the child, the degree  
22 of parent-child bonding, the length of the sentence, the length and  
23 nature of the treatment, the nature of the crime or illness, the degree  
24 of detriment to the child if services are not offered and, for children  
25 10 years of age or older, the child's attitude toward the  
26 implementation of family reunification services, the likelihood of  
27 the parent's discharge from incarceration or institutionalization  
28 within the reunification time limitations described in subdivision  
29 (a), and any other appropriate factors. In determining the content  
30 of reasonable services, the court shall consider the particular  
31 barriers to an incarcerated or otherwise institutionalized parent's  
32 access to those court-mandated services and ability to maintain  
33 contact with his or her child, and shall document this information  
34 in the child's case plan. Reunification services are subject to the  
35 applicable time limitations imposed in subdivision (a). Services  
36 may include, but shall not be limited to, all of the following:

37 (A) Maintaining contact between the parent and child through  
38 collect telephone calls.

39 (B) Transportation services, where appropriate.

40 (C) Visitation services, where appropriate.

1 (D) Reasonable services to extended family members or foster  
2 parents providing care for the child if the services are not  
3 detrimental to the child.

4 An incarcerated parent may be required to attend counseling,  
5 parenting classes, or vocational training programs as part of the  
6 reunification service plan if actual access to these services is  
7 provided. The social worker shall document in the child's case  
8 plan the particular barriers to an incarcerated or institutionalized  
9 parent's access to those court-mandated services and ability to  
10 maintain contact with his or her child.

11 (2) The presiding judge of the juvenile court of each county  
12 may convene representatives of the county welfare department,  
13 the sheriff's department, and other appropriate entities for the  
14 purpose of developing and entering into protocols for ensuring the  
15 notification, transportation, and presence of an incarcerated or  
16 institutionalized parent at all court hearings involving proceedings  
17 affecting the child pursuant to Section 2625 of the Penal Code.  
18 The county welfare department shall utilize the prisoner locator  
19 system developed by the Department of Corrections and  
20 Rehabilitation to facilitate timely and effective notice of hearings  
21 for incarcerated parents.

22 (3) Notwithstanding any other provision of law, if the  
23 incarcerated parent is a woman seeking to participate in the  
24 community treatment program operated by the Department of  
25 Corrections and Rehabilitation pursuant to Chapter 4.8  
26 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter  
27 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal  
28 Code, the court shall determine whether the parent's participation  
29 in a program is in the child's best interest and whether it is suitable  
30 to meet the needs of the parent and child.

31 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),  
32 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or  
33 paragraph (1) of subdivision (e), does not order reunification  
34 services, it shall, at the dispositional hearing, that shall include a  
35 permanency hearing, determine if a hearing under Section 366.26  
36 shall be set in order to determine whether adoption, guardianship,  
37 or long-term foster care is the most appropriate plan for the child,  
38 and shall consider in-state and out-of-state placement options. If  
39 the court so determines, it shall conduct the hearing pursuant to  
40 Section 366.26 within 120 days after the dispositional hearing.



1 However, the court shall not schedule a hearing so long as the  
2 other parent is being provided reunification services pursuant to  
3 subdivision (a). The court may continue to permit the parent to  
4 visit the child unless it finds that visitation would be detrimental  
5 to the child.

6 (g) (1) Whenever a court orders that a hearing shall be held  
7 pursuant to Section 366.26, it shall direct the agency supervising  
8 the child and the licensed county adoption agency, or the State  
9 Department of Social Services when it is acting as an adoption  
10 agency in counties that are not served by a county adoption agency,  
11 to prepare an assessment that shall include:

12 (A) Current search efforts for an absent parent or parents and  
13 notification of a noncustodial parent in the manner provided for  
14 in Section 291.

15 (B) A review of the amount of and nature of any contact between  
16 the child and his or her parents and other members of his or her  
17 extended family since the time of placement. Although the  
18 extended family of each child shall be reviewed on a case-by-case  
19 basis, “extended family” for the purpose of this subparagraph shall  
20 include, but not be limited to, the child’s siblings, grandparents,  
21 aunts, and uncles.

22 (C) An evaluation of the child’s medical, developmental,  
23 scholastic, mental, and emotional status.

24 (D) A preliminary assessment of the eligibility and commitment  
25 of any identified prospective adoptive parent or guardian,  
26 particularly the caretaker, to include a social history, including  
27 screening for criminal records and prior referrals for child abuse  
28 or neglect, the capability to meet the child’s needs, and the  
29 understanding of the legal and financial rights and responsibilities  
30 of adoption and guardianship. If a proposed guardian is a relative  
31 of the minor, the assessment shall also consider, but need not be  
32 limited to, all of the factors specified in subdivision (a) of Section  
33 361.3 and in Section 361.4. As used in this subparagraph, “relative”  
34 means an adult who is related to the minor by blood, adoption, or  
35 affinity within the fifth degree of kinship, including stepparents,  
36 stepsiblings, and all relatives whose status is preceded by the words  
37 “great,” “great-great,” or “grand,” or the spouse of any of those  
38 persons even if the marriage was terminated by death or  
39 dissolution.

(E) The relationship of the child to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the child concerning placement and the adoption or guardianship, and whether the child over 12 years of age has been consulted about the proposed relative guardianship arrangements unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption.

(h) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) of Chapter 2, as applicable.

(i) In determining whether reunification services will benefit the child pursuant to paragraph (6) or (7) of subdivision (b), the court shall consider any information it deems relevant, including the following factors:

(1) The specific act or omission comprising the severe sexual abuse or the severe physical harm inflicted on the child or the ~~child's sibling or half sibling or nonrelated child in the care of the parent or guardian~~ *sibling or half sibling, or another child.*

1 (2) The circumstances under which the abuse or harm was  
2 inflicted on the child or the child's ~~sibling or half sibling~~ *sibling*  
3 *or half sibling, or another child.*

4 (3) The severity of the emotional trauma suffered by the child  
5 or the child's sibling or half sibling, *or another child.*

6 (4) Any history of abuse of other children by the offending  
7 parent or guardian.

8 (5) The likelihood that the child may be safely returned to the  
9 care of the offending parent or guardian within 12 months with no  
10 continuing supervision.

11 (6) Whether or not the child desires to be reunified with the  
12 offending parent or guardian.

13 (j) The court shall read into the record the basis for a finding of  
14 severe sexual abuse or the infliction of severe physical harm under  
15 paragraph (6) of subdivision (b), and shall also specify the factual  
16 findings used to determine that the provision of reunification  
17 services to the offending parent or guardian would not benefit the  
18 child.

19 (k) This section shall become operative on January 1, 2014.

20 SEC. 3. Section 388 of the Welfare and Institutions Code is  
21 amended to read:

22 388. (a) (1) Any parent or other person having an interest in  
23 a child who is a dependent child of the juvenile court or the child  
24 himself or herself through a properly appointed guardian may,  
25 upon grounds of change of circumstance or new evidence, petition  
26 the court in the same action in which the child was found to be a  
27 dependent child of the juvenile court or in which a guardianship  
28 was ordered pursuant to Section 360 for a hearing to change,  
29 modify, or set aside any order of court previously made or to  
30 terminate the jurisdiction of the court. The petition shall be verified  
31 and, if made by a person other than the child, shall state the  
32 petitioner's relationship to or interest in the child and shall set forth  
33 in concise language any change of circumstance or new evidence  
34 that is alleged to require the change of order or termination of  
35 jurisdiction.

36 (2) When any party, including a child who is a dependent of the  
37 juvenile court, petitions the court, prior to the hearing set pursuant  
38 to Section 366.26 *or prior to an order terminating parental rights,*  
39 to modify the order that reunification services were not needed  
40 pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section

1 361.5, or to modify any orders related to custody or visitation of  
2 the child, the court shall order a hearing on the petition only if the  
3 court finds by a preponderance of the evidence that the best  
4 interests of the child will be met by the proposed change or order.  
5 At that hearing, the court shall modify the order that reunification  
6 services were not needed pursuant to paragraphs (4), (5), and (6)  
7 of subdivision (b) of Section 361.5, or any orders related to the  
8 custody or visitation of the child, only if the court finds by clear  
9 and convincing evidence that ~~reunification~~ *the proposed change*  
10 is in the best interests of the child.

11 (b) Any person, including a child who is a dependent of the  
12 juvenile court, may petition the court to assert a relationship as a  
13 sibling related by blood, adoption, or affinity through a common  
14 legal or biological parent to a child who is, or is the subject of a  
15 petition for adjudication as, a dependent of the juvenile court, and  
16 may request visitation with the dependent child, placement with  
17 or near the dependent child, or consideration when determining  
18 or implementing a case plan or permanent plan for the dependent  
19 child or make any other request for an order which may be shown  
20 to be in the best interest of the dependent child. The court may  
21 appoint a guardian ad litem to file the petition for the dependent  
22 child asserting the sibling relationship if the court determines that  
23 the appointment is necessary for the best interests of the dependent  
24 child. The petition shall be verified and shall set forth the  
25 following:

26 (1) Through which parent he or she is related to the dependent  
27 child.

28 (2) Whether he or she is related to the dependent child by blood,  
29 adoption, or affinity.

30 (3) The request or order that the petitioner is seeking.

31 (4) Why that request or order is in the best interest of the  
32 dependent child.

33 (c) (1) Any party, including a child who is a dependent of the  
34 juvenile court, may petition the court, prior to the hearing set  
35 pursuant to subdivision (f) of Section 366.21 for a child described  
36 by subparagraph (A) of paragraph (1) of subdivision (a) of Section  
37 361.5, or prior to the hearing set pursuant to subdivision (e) of  
38 Section 366.21 for a child described by subparagraph (B) or (C)  
39 of paragraph (1) of subdivision (a) of Section 361.5, to terminate

1 court-ordered reunification services provided under subdivision  
2 (a) of Section 361.5 only if one of the following conditions exists:

3 (A) It appears that a change of circumstance or new evidence  
4 exists that satisfies a condition set forth in subdivision (b) or (e)  
5 of Section 361.5 justifying termination of court-ordered  
6 reunification services.

7 (B) The action or inaction of the parent or guardian creates a  
8 substantial likelihood that reunification will not occur, including,  
9 but not limited to, the parent or guardian's failure to visit the child,  
10 or the failure of the parent or guardian to participate regularly and  
11 make substantive progress in a court-ordered treatment plan.

12 (2) In determining whether the parent or guardian has failed to  
13 visit the child or participate regularly or make progress in the  
14 treatment plan, the court shall consider factors including, but not  
15 limited to, the parent or guardian's incarceration,  
16 institutionalization, or participation in a court-ordered residential  
17 substance abuse treatment program.

18 (3) The court shall terminate reunification services during the  
19 above-described time periods only upon a finding by a  
20 preponderance of evidence that reasonable services have been  
21 offered or provided, and upon a finding of clear and convincing  
22 evidence that one of the conditions in subparagraph (A) or (B) of  
23 paragraph (1) exists.

24 (4) If the court terminates reunification services, it shall order  
25 that a hearing pursuant to Section 366.26 be held within 120 days.

26 (d) If it appears that the best interests of the child may be  
27 promoted by the proposed change of order, recognition of a sibling  
28 relationship, termination of jurisdiction, or clear and convincing  
29 evidence supports revocation or termination of court-ordered  
30 reunification services, the court shall order that a hearing be held  
31 and shall give prior notice, or cause prior notice to be given, to the  
32 persons and by the means prescribed by Section 386, and, in those  
33 instances in which the means of giving notice is not prescribed by  
34 those sections, then by means the court prescribes.

35 (e) (1) On and after January 1, 2012, a nonminor who attained  
36 18 years of age while subject to an order for foster care placement  
37 and, commencing January 1, 2012, who has not attained 19 years  
38 of age, or, commencing January 1, 2013, 20 years of age, or,  
39 commencing January 1, 2014, 21 years of age, for whom the court  
40 has dismissed dependency jurisdiction pursuant to Section 391, or

1 delinquency jurisdiction pursuant to Section 607.2 or transition  
2 jurisdiction pursuant to Section 452, but has retained general  
3 jurisdiction under subdivision (b) of Section 303, or the county  
4 child welfare services, probation department, or tribal placing  
5 agency on behalf of the nonminor, may petition the court in the  
6 same action in which the child was found to be a dependent or  
7 delinquent child of the juvenile court, for a hearing to resume the  
8 dependency jurisdiction over a former dependent or to assume or  
9 resume transition jurisdiction over a former delinquent ward  
10 pursuant to Section 450. The petition shall be filed within the  
11 period that the nonminor is of the age described in this paragraph.  
12 If the nonminor has completed the voluntary reentry agreement,  
13 as described in subdivision (z) of Section 11400, with the placing  
14 agency, the agency shall file the petition on behalf of the nonminor  
15 within 15 judicial days of the date the agreement was signed unless  
16 the nonminor elects to file the petition at an earlier date.

17 (2) (A) The petition to resume jurisdiction may be filed in the  
18 juvenile court that retains general jurisdiction under subdivision  
19 (b) of Section 303, or the petition may be submitted to the juvenile  
20 court in the county where the youth resides and forwarded to the  
21 juvenile court that retained general jurisdiction and filed with that  
22 court. The juvenile court having general jurisdiction under Section  
23 303 shall receive the petition from the court where the petition  
24 was submitted within five court days of its submission, if the  
25 petition is filed in the county of residence. The juvenile court that  
26 retained general jurisdiction shall order that a hearing be held  
27 within 15 judicial days of the date the petition was filed if there is  
28 a prima facie showing that the nonminor satisfies the following  
29 criteria:

30 (i) He or she was previously under juvenile court jurisdiction,  
31 subject to an order for foster care placement when he or she  
32 attained 18 years of age, and has not attained the age limits  
33 described in paragraph (1).

34 (ii) He or she intends to satisfy at least one of the conditions set  
35 forth in paragraphs (1) to (5), inclusive, of subdivision (b) of  
36 Section 11403.

37 (iii) He or she wants assistance either in maintaining or securing  
38 appropriate supervised placement, or is in need of immediate  
39 placement and agrees to supervised placement pursuant to the

1 voluntary reentry agreement as described in subdivision (z) of  
2 Section 11400.

3 (B) Upon ordering a hearing, the court shall give prior notice,  
4 or cause prior notice to be given, to the persons and by the means  
5 prescribed by Section 386, except that notice to parents or former  
6 guardians shall not be provided unless the nonminor requests, in  
7 writing on the face of the petition, notice to the parents or former  
8 guardians.

9 (3) The Judicial Council, by January 1, 2012, shall adopt rules  
10 of court to allow for telephonic appearances by nonminor former  
11 dependents or delinquents in these proceedings, and for telephonic  
12 appearances by nonminor dependents in any proceeding in which  
13 the nonminor dependent is a party, and he or she declines to appear  
14 and elects a telephonic appearance.

15 (4) Prior to the hearing on a petition to resume dependency  
16 jurisdiction or to assume or resume transition jurisdiction, the court  
17 shall order the county child welfare or probation department or  
18 Indian tribe that has entered into an agreement pursuant to Section  
19 10553.1 to prepare a report for the court addressing whether the  
20 nonminor intends to satisfy at least one of the criteria set forth in  
21 subdivision (b) of Section 11403. When the recommendation is  
22 for the nonminor dependent to be placed in a setting where minor  
23 dependents also reside, the results of a background check of the  
24 petitioning nonminor conducted pursuant to Section 16504.5, used  
25 by the placing agency to determine appropriate placement options  
26 for the nonminor. The existence of a criminal conviction is not a  
27 bar to eligibility for reentry or resumption of dependency  
28 jurisdiction or the assumption or resumption of transition  
29 jurisdiction over a nonminor.

30 (5) (A) The court shall resume dependency jurisdiction over a  
31 former dependent or assume or resume transition jurisdiction over  
32 a former delinquent ward pursuant to Section 450, and order that  
33 the nonminor's placement and care be under the responsibility of  
34 the county child welfare services department, the probation  
35 department, or tribe, if the court finds all of the following:

36 (i) The nonminor was previously under juvenile court  
37 jurisdiction subject to an order for foster care placement when he  
38 or she attained 18 years of age.

39 (ii) The nonminor has not attained the age limits described in  
40 paragraph (1).

1 (iii) Reentry and remaining in foster care are in the nonminor's  
2 best interests.

3 (iv) The nonminor intends to satisfy, and agrees to satisfy, at  
4 least one of the criteria set forth in paragraphs (1) to (5), inclusive,  
5 of subdivision (b) of Section 11403, or demonstrates his or her  
6 agreement to satisfy the criteria by signing the voluntary reentry  
7 agreement as described in subdivision (z) of Section 11400.

8 (B) The agency made responsible for the nonminor's placement  
9 and care pursuant to subparagraph (A) shall prepare a new  
10 transitional independent living case plan and submit it to the court  
11 within 60 days of the resumption of dependency jurisdiction or  
12 assumption or resumption of transition jurisdiction.

13 (C) In no event shall the court grant a continuance that would  
14 cause the hearing to resume dependency jurisdiction or to assume  
15 or resume transition jurisdiction to be completed more than 120  
16 days after the date the petition was submitted.